

Executive Summary – Enforcement Matter – Case No. 43168
Energy Corporation of America
RN106176720
Docket No. 2011-2327-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

FASH DEEP NO 1 NO A2 NO 1H, 3925 Montgomery Road, Richmond, Fort Bend County

Type of Operation:

Oil and gas production site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 22, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$16,521

Amount Deferred for Expedited Settlement: \$3,304

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$13,217

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average by Default

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 43168
Energy Corporation of America
RN106176720
Docket No. 2011-2327-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 19, 2011

Date(s) of NOE(s): December 8, 2011

Violation Information

1. Failed to route flashed gases from the storage tanks to a vapor recovery system or a control device. Specifically, two storage tanks were not routed to a vapor recovery system or control device, and the tanks emitted 5.70 tons of volatile organic compounds in calendar year 2009 [30 TEX. ADMIN. CODE § 115.112(d)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to obtain authorization to construct and operate a source of air emissions. Specifically, Respondent failed to obtain a permit authorization to operate the Site and could not satisfy the conditions for the Permit-by-Rule for oil and gas production facilities [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].

3. Failed to obtain a federal operating permit. Specifically, the Site exceeded the 25 tons per year major source threshold in calendar year 2009 when emissions reached 30.75 tons of volatile organic compounds [30 TEX. ADMIN. CODE §§ 122.121 and 122.130(b) and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By December 31, 2009, Respondent reduced production and reduced site-wide emissions to 11.94 tons per year of volatile organic compounds. Therefore, Respondent met the exemptions under 30 TEX. ADMIN. CODE § 115.117(a)(9), satisfied the conditions for operating the Site under the Permit-By-Rule of 30 TEX. ADMIN. CODE § 106.352, and demonstrated that the Site was not applicable to the federal operating permit requirements under 30 TEX. ADMIN. CODE ch. 122.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 43168
Energy Corporation of America
RN106176720
Docket No. 2011-2327-AIR-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Trina Grieco, Enforcement Division,
Enforcement Team 4, MC R-13, (210) 403-4006; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Kyle M. Mork, Senior Vice President, Energy Corporation of America,
245 Commerce Green Boulevard, Suite 270, Sugar Land, Texas 77478
Clark Clement, Vice President Western Operations, Energy Corporation of America, 245
Commerce Green Boulevard, Suite 270, Sugar Land, Texas 77478

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES Assigned 12-Dec-2011
PCW 23-Mar-2012 Screening 20-Dec-2011 EPA Due 3-Sep-2012

RESPONDENT/FACILITY INFORMATION

Respondent Energy Corporation of America
Reg. Ent. Ref. No. RN106176720
Facility/Site Region 12-Houston Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No. 43168 No. of Violations 3
Docket No. 2011-2327-AIR-E Order Type 1660
Media Program(s) Air Government/Non-Profit No
Multi-Media Inf. Coordinator Trina Grieco
EC's Team Enforcement Team 4
Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$15,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0.0% Enhancement Subtotals 2, 3, & 7 \$0

Notes No adjustment for compliance history.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$3,750

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts \$5,771
Approx. Cost of Compliance \$15,100
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$11,250

OTHER FACTORS AS JUSTICE MAY REQUIRE

46.9% Adjustment \$5,271

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided costs associated with violation no. 3.

Final Penalty Amount \$16,521

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$16,521

DEFERRAL

20.0% Reduction Adjustment -\$3,304

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY \$13,217

Screening Date 20-Dec-2011

Docket No. 2011-2327-AIR-E

PCW

Respondent Energy Corporation of America

Case ID No. 43168

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106176720

Media [Statute] Air

Enf. Coordinator Trina Grieco

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 20-Dec-2011

Docket No. 2011-2327-AIR-E

PCW

Respondent Energy Corporation of America

Policy Revision 2 (September 2002)

Case ID No. 43168

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106176720

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 115.112(d)(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to route flashed gases from the storage tanks to a vapor recovery system or a control device. Specifically, two storage tanks were not routed to a vapor recovery system or control device, and the tanks emitted 5.70 tons of volatile organic compounds in calendar year 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to an insignificant amount of pollutants that did not exceed protective levels as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4

365 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$10,000

Four quarterly events are recommended based on the January 1, 2009 non-compliance date through the December 31, 2009 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$2,500

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent returned to compliance by December 31, 2009 and the Notice of Enforcement ("NOE") is dated December 8, 2011.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$499

Violation Final Penalty Total \$11,014

This violation Final Assessed Penalty (adjusted for limits) \$11,014

Economic Benefit Worksheet

Respondent Energy Corporation of America
Case ID No. 43168
Reg. Ent. Reference No. RN106176720
Media Air
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	1-Jan-2009	31-Dec-2009	1.00	\$499	\$499

Notes for DELAYED costs

Estimated cost to make the required modifications to the two tanks (\$5,000 per tank). The Date Required is the date controls were required to be installed. The Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$499

Screening Date 20-Dec-2011

Docket No. 2011-2327-AIR-E

PCW

Respondent Energy Corporation of America

Policy Revision 2 (September 2002)

Case ID No. 43168

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106176720

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description

Failed to obtain authorization to construct and operate a source of air emissions. Specifically, the Respondent failed to obtain a permit authorization to operate the Site and could not satisfy the conditions for the Permit by Rule for oil and gas production facilities.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

61 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent returned to compliance by December 31, 2009 and the NOE is dated December 8, 2011.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$2,754

This violation Final Assessed Penalty (adjusted for limits) \$2,754

Economic Benefit Worksheet

Respondent Energy Corporation of America
Case ID No. 43168
Req. Ent. Reference No. RN106176720
Media Air
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs	\$100	31-Oct-2009	31-Dec-2009	0.17	\$1	\$1
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to meet a Permit by Rule. Date Required is the first date of non-compliance and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$1

Screening Date 20-Dec-2011

Docket No. 2011-2327-AIR-E

PCW

Respondent Energy Corporation of America

Policy Revision 2 (September 2002)

Case ID No. 43168

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106176720

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 122.121 and 122.130(b) and Tex. Health & Safety Code §§ 382.054 and 382.085(b)

Violation Description

Failed to obtain a federal operating permit. Specifically, the Site exceeded the 25 tons per year major source threshold in calendar year 2009 when emissions reached 30.75 tons of volatile organic compounds.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

62 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent returned to compliance by December 31, 2009 and the NOE is dated December 8, 2011.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5,271

Violation Final Penalty Total \$2,754

This violation Final Assessed Penalty (adjusted for limits) \$2,754

Economic Benefit Worksheet

Respondent Energy Corporation of America
Case ID No. 43168
Reg. Ent. Reference No. RN106176720
Media Air
Violation No. 3

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	31-Oct-2009	31-Dec-2009	1.08	\$271	\$5,271

Notes for AVOIDED costs

Avoided cost to prepare and submit a federal operating permit application. The Date Required is the date of non-compliance and the Final Date is the date of compliance.

Approx. Cost of Compliance

\$5,000

TOTAL

\$5,271

Compliance History

Customer/Respondent/Owner-Operator: CN603662495 Energy Corporation of America Classification: AVERAGE Rating: 3.01

Regulated Entity: RN106176720 FASH DEEP NO 1 NO A2 NO 1H Classification: AVERAGE Site Rating: 3.01
BY DEFAULT

ID Number(s):

Location: 3925 MONTGOMERY ROAD, RICHMOND, TEXAS, 77406

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: December 20, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 20, 2006 to December 20, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Allison Fischer Phone: (512) 239-2574

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? NO
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 12/08/2011 (941729)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ENERGY CORPORATION OF
AMERICA
RN106176720**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-2327-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Energy Corporation of America ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an oil and gas production site at 3925 Montgomery Road in Richmond, Fort Bend County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 13, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Sixteen Thousand Five Hundred Twenty-One Dollars (\$16,521) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Thirteen Thousand Two Hundred Seventeen Dollars (\$13,217) of the administrative penalty and Three Thousand Three Hundred Four Dollars (\$3,304) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes by December 31, 2009, the Respondent reduced production and reduced site-wide emissions to 11.94 tons per year of volatile organic compounds. Therefore, the Respondent met the exemptions under 30 TEX. ADMIN. CODE § 115.117(a)(9), satisfied the conditions for operating the Site under the Permit By Rule of 30 TEX. ADMIN. CODE § 106.352, and demonstrated that the Site was not applicable to the federal operating permit requirements under 30 TEX. ADMIN. CODE ch. 122.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to route flashed gases from the storage tanks to a vapor recovery system or a control device, in violation of 30 TEX. ADMIN. CODE § 115.112(d)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on April 19, 2011. Specifically, two storage tanks were not routed to a vapor recovery system or control device, and the tanks emitted 5.70 tons of volatile organic compounds in calendar year 2009.
2. Failed to obtain authorization to construct and operate a source of air emissions, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on

April 19, 2011. Specifically, the Respondent failed to obtain a permit authorization to operate the Site and could not satisfy the conditions for the Permit by Rule for oil and gas production facilities.

3. Failed to obtain a federal operating permit, in violation of 30 TEX. ADMIN. CODE §§ 122.121 and 122.130(b) and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b), as documented during an investigation conducted on April 19, 2011. Specifically, the Site exceeded the 25 tons per year major source threshold in calendar year 2009 when emissions reached 30.75 tons of volatile organic compounds.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Energy Corporation of America, Docket No. 2011-2327-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature

could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

6/18/12

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

April 24, 2012

Date

Kyle M. Mork

Name (Printed or typed)
Authorized Representative of
Energy Corporation of America

Senior Vice President

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.